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Report of the Secretary-General on the restoration of constitutional order in Guinea-Bissau

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 2048 (2012), by which the Council requested me to submit regular reports every 90 days on the implementation of that resolution, including on the restoration of and respect for constitutional order in Guinea-Bissau, as well as the humanitarian situation in the country. It covers major developments since my previous report of 27 November 2012 (S/2012/887), and my report of 11 January 2013 (S/2013/26), which was submitted pursuant to resolution 2030 (2011) on developments in Guinea-Bissau and on the activities of the United Nations Integrated Peacebuilding Office in that country (UNIOGBIS).

II. Restoration of and respect for constitutional order

A. Political situation

2. There was no significant progress towards implementation of resolution 2048 (2012) during the reporting period. National stakeholders remained divided on the transitional arrangements and on how to achieve the full restoration of constitutional order in the country. The military continued to interfere in politics, and international partners are yet to agree on the assessment on the ground.

1. Overview of the political situation in the country

3. The continuing stagnation notwithstanding, the period under review was generally characterized by a climate of relative political compromise. The mandate of the National Assembly was extended until the swearing-in of newly elected parliamentarians, the date of which remains uncertain; a new Speaker of the National Assembly was elected; and an all-party parliamentary commission was established by the National Assembly to review the political transition pact and the political agreement signed by the military junta and 17 political parties in May 2012. Since its establishment, the Parliamentary Commission has held consultations with the 37 registered political parties and civil society, including women and youth organizations. Although the defence and security forces have been invited to participate in the consultations, they have not done so.

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4. At its meetings of 12 and 13 January, the Central Committee of the African Party for the Independence of Guinea and Cape Verde (PAIGC), which remains the majority political party in the parliament, endorsed a proposal by the PAIGC Political Bureau for the party to sign the political transition act and the political agreement. The Central Committee also agreed to convene an ordinary congress of PAIGC in May 2013 to elect a new leader of the party. The former Executive Secretary of the Community of Portuguese-speaking Countries (CPLP), Domingos Simões Pereira, and the former Minister of Public Administration and Civil Service in the Government deposed by the coup d'état of 12 April 2012, Aristides Ocante da Silva, have officially announced their candidatures.

5. On 17 January, PAIGC and its political allies — the Democratic Alliance, the Democratic Convergence Party, the New Democracy Party, and the United Social Democratic Party, which is not represented in the parliament — signed the political transition pact and the political agreement. On that occasion, the PAIGC spokesperson reiterated the party's determination to work with all actors, indicating that the signing of the documents demonstrated the commitment of PAIGC to national interests. He stressed the need to promote inclusive dialogue and create a broad-based Government emanating from the parliament. He also underscored the need for enhanced dialogue among the international partners of Guinea-Bissau and for harmonization of their efforts, as well as for dialogue between PAIGC and the de facto authorities.

6. Following those developments, the Transitional President, Serifo Nhamadjo, expressed satisfaction that the transition was being consolidated and called upon political actors and members of civil society to work together to devise a realistic transitional agenda outlining the country's short-term, medium-term and long-term priorities.

7. On 4 February, the Party for Social Renewal (PRS), the second-largest party in the parliament, shared with international partners in Bissau a note on its consultations with political parties, civil society, religious organizations and traditional leaders early in December 2012. In that note, it was proposed that local elections should be held before general elections and that the decisions to have a proportional electoral system and to confer overall responsibility for elections to the National Electoral Commission should be revisited. In addition, the note underscored the need for a national political agenda for the transition to be submitted for parliamentary approval. It also included a proposal that the transition be extended by 18 months until November 2014.

8. On 7 February, at the request of PAIGC, UNIOGBIS convened a meeting with international partners for PAIGC to provide its assessment of the continuing transition and the way forward. The party expressed concern that some national stakeholders, including PRS, were holding parallel meetings instead of supporting the work of the Parliamentary Commission. In addition, it proposed that the transitional period should be extended for six months until November 2013, as opposed to the 18 months proposed by PRS. Lastly, it warned that it would not cooperate with the de facto authorities if they failed to include PAIGC members in the Transitional Government or to take account of its proposal on the extension of the transitional period.

2. Overview of the human rights situation in the country

9. During the period under review, there were continuing concerns over human rights violations, especially with regard to extrajudicial killings and restrictions on the rights to freedom of expression and movement. Some opposition political leaders and civil society members remained in hiding in embassies or in neighbouring countries over fears for their personal safety. In addition, the ban on demonstrations imposed by the military junta following the coup d'état continued to be enforced.

10. On 7 February, the Guinea-Bissau Human Rights League launched its report on the human rights situation in the country for the period 2010-2012. In his speech on that occasion, the president of the League underscored that it was important for the parliament to adopt a plan for the restoration of constitutional order within one year. The report recommended the creation of an international court to investigate and bring to justice those responsible for political assassinations owing to the manifest incapacity of the national authorities; amendment of the Constitution to allow for the independence of the Office of the Prosecutor General from the executive branch; and the ratification of the Rome Statute of the International Criminal Court as a step towards combating impunity in Guinea-Bissau and promoting access to justice.

11. On 24 January, the Office of the Prosecutor General expressed to UNIOGBIS the need to synchronize the various branches of the criminal justice system, to train members of the military courts and to review legislation on the armed forces.

12. Conditions of inmates in prisons and detention centres throughout the country remained difficult. Many prisoners continued to face arbitrary and illegal detentions beyond the period established by law, which included no access to legal counsel, no family visits and limited access to food, potable water and medical care. In an effort to tackle the situation and improve coordination among relevant partners, the Ministry of Justice agreed on 23 January to establish an interdisciplinary committee, comprising representatives of the relevant national authorities, members of civil society and international partners, to support prisons and detention centres.

13. Early in January, the Military Court formally charged the 17 detainees accused of involvement in the incidents in the area of the Bissalanca air force base in Bissau on 21 October 2012. They were charged with crimes against State security and with staging an attack on a military installation. Their detention conditions fell short of international standards.

14. The former Minister of Finance, José Mário Vaz, who fled the country after the coup d'état of 12 April 2012, was arrested at his home in Calequisse, Cacheu region, on 4 February. He had just returned from Lisbon. On 6 February, during a visit by UNIOGBIS to the office of the Judiciary Police where he was being held, Mr. Vaz informed UNIOGBIS that he believed that his arrest was politically motivated. He also reported that he was being well treated and had been allowed access to independent legal counsel. He was brought before a judge on 8 February and released. His hearing continued on 11 February, but no decision was taken on whether he would face charges. The Office of the Public Prosecutor has requested him to surrender his passport and to inform it if he intends to be absent from his residence for more than five days.

15. On 7 February, two of the four prosecutors who were part of a commission established within the Office of the Prosecutor General to investigate financial crimes were replaced. No official reason was given for their removal.

16. In its 2013 Press Freedom Index, Reporters Without Borders, a media watchdog group, reported that the ranking of Guinea-Bissau had fallen from the 75th to the 92nd position because of the imposition of what it termed "military censorship" on the media.

3. Efforts at the regional and international levels towards the restoration of and respect for constitutional order

17. Following its extraordinary session, held on 19 January in Abidjan, the Authority of Heads of State and Government of the Economic Community of West African States (ECOWAS) welcomed the accession of all political parties in Guinea-Bissau to the transitional pact and expressed its commitment to accompanying Guinea-Bissau in accomplishing the tasks of the transitional process, including the conduct of urgent multi-sectoral reforms and the holding of inclusive, free, fair and transparent elections in the course of the transition. It directed the President of the ECOWAS Commission to take all appropriate measures to expedite action on the commencement of the implementation of the Defence and Security Sector Reform Programme. It also reiterated its call to the African Union to urgently consider the recognition of the ongoing transition and the lifting of sanctions against Guinea-Bissau. It urged the United Nations, CPLP, the European Union and other international partners to resume cooperation with Guinea-Bissau and to support efforts aimed at ensuring a more inclusive transition in the country.

18. At a consultative meeting on the situation in Guinea-Bissau, held in Addis Ababa on 26 January on the margins of the African Union summit, senior representatives of the African Union, CPLP, ECOWAS, the European Union and the United Nations agreed that the report of their joint assessment mission to Guinea-Bissau, which took place from 16 to 21 December 2012, should be submitted to the relevant organs of their respective organizations in order to promote convergence in their appreciation of the progress made and to enhance prospects for coordinated contributions to the resolution of the crisis in Guinea-Bissau.

4. Efforts towards a democratic electoral process

19. On 19 January, the Transitional President confirmed to the press in Abidjan that presidential and legislative elections would not take place at the end of April 2013, as envisaged in the transition political pact, owing to financial, technical and organizational constraints. Preparations for the elections are, however, continuing. The Executive Secretary of the National Electoral Commission informed UNIOGBIS on 29 January that the teams conducting the electoral boundary delimitation exercise had completed their tasks, but that the cartographers had repeatedly gone on strike over unpaid arrears and were withholding all the data. He indicated that approximately $95,000 (CFAF 47 million) of a total estimated budget of $216,000 (CFAF 107 million) was required to complete the electoral boundary delimitation exercise. He also said that, following the announcement of a new date for the elections by the Transitional President, the Commission would prepare a new electoral timetable. On 30 January, the Director General of the Electoral Process Support Office advised UNIOGBIS that the Office was continuing its planning for

biometric voter registration. Meanwhile, the presidency of the Commission remains vacant following the resignation of the incumbent in December 2012 owing to disagreements among the political parties who had signed the transition political pact over his nomination to the post by PAIGC and his election by the parliament.

B. Security situation

20. During the period under review, the overall internal security situation was stable, but remained volatile. Military and police checkpoints remained in place on the outskirts of Bissau and elsewhere, with reports of acts of extortion being committed against the population at the checkpoints. The Public Order Police and the National Guard implemented joint patrols and increased traffic controls at night aimed at stemming the rising crime rate in Bissau. New telephone lines were also installed in all Public Order Police stations in Bissau to ensure access by the population in case of emergency.

21. During its above-mentioned extraordinary session, the ECOWAS Authority approved the creation of a reserve force of 140 troops to enhance support to the ECOWAS Mission in Guinea-Bissau. The Mission's authorized strength currently stands at 677 police, military and logistical support personnel.

22. On 30 January, the Transitional President indicated that Guinea-Bissau would no longer contribute troops to the African-led International Support Mission in Mali owing to financial constraints.

III. Socioeconomic and humanitarian situation

23. According to the Director General of Budget of the Ministry of Finance, the country received approximately CFAF 11.9 billion (some $22.9 million) in 2012 from bilateral and multilateral partners in the subregion, which included $7.2 million from the West African Economic and Monetary Union, $2.7 million from ECOWAS and $13 million from Nigeria. The funds reportedly assisted the State in paying civil servants' salaries.

24. There was a noticeable decline in the outbreak of cholera in the country. The cholera epidemic peaked in November 2012 with 1,513 cases and fell to 467 and 133 cases in December 2012 and January 2013, respectively. The Epidemic Control Committee under the Ministry of Health, the World Health Organization, the United Nations Children's Fund and other key non-governmental organizations and community-based organizations working in the field of water and sanitation implemented cholera prevention and response collaborative initiatives, which successfully curbed the spread of the epidemic. According to the latest bulletin, issued by the Ministry of Health and Social Solidarity on 17 January, 3,492 cholera cases (including 23 deaths) have been recorded since the outbreak of the epidemic in August 2012. Some 86 per cent of the cases occurred in Bissau.

IV. Observations

25. I am concerned about the lack of meaningful progress towards the restoration of and respect for constitutional order in accordance with resolution 2048 (2012).

The political developments in the parliament notwithstanding, the military continues to interfere in political affairs. The signing by PAIGC of the transition political pact and the political agreement was encouraging. I hope that this development will culminate in the formulation of a new transitional regime pact and a transition road map containing a realistic time frame, including for the holding of legislative and presidential elections. I call upon national stakeholders to remain committed to achieving this objective.

26. If Guinea-Bissau is to break the vicious cycle of political and military instability, there must be fundamental changes in the way in which politics is conducted and in how reforms, especially in the defence, security and justice sectors, are implemented. To garner support both nationally and internationally, such reforms should be initiated and implemented by a constitutionally elected Government.

27. Tackling the causes of impunity, which has afflicted Guinea-Bissau for most of its history, should be part of a medium-term to long-term reform programme. I am concerned that, to date, no meaningful steps have been taken with regard to investigations and prosecutions into past assassinations, especially those of March and June 2009. I am also concerned that no investigation has been opened into the killings linked to the military incidents of 21 October 2012 and its aftermath. I call upon the de facto authorities to urgently initiate credible and transparent investigations into these incidents in accordance with international standards.

28. I have taken note of the technical preparations being made by the de facto authorities for the holding of presidential and legislative elections. To avert future discord, it is important that voter registration be conducted expeditiously and in a fully participatory and transparent manner, on the basis of modalities agreed upon by all stakeholders concerned. A successful democratic electoral process also depends on the political, security and social environment within which elections take place. The process will need to be inclusive and will require consensus, compromise and the commitment of all stakeholders. The country will also need international support for the holding of the elections. In this regard, the finalization of a consensual, transparent and realistic electoral timetable will be crucial.

29. It is important that women's initiatives for peacebuilding be encouraged and specific measures be taken to ensure women's full participation in the transition, including in dialogue initiatives and in the establishment of transitional arrangements. It is also important to ensure the participation of women in electoral and legal reform processes and bodies. This would contribute to an inclusive political process and ensure compliance with the principle of non-discrimination.

30. I welcome the efforts of the African Union, CPLP, ECOWAS and the European Union to harmonize their positions around a shared vision aimed at ensuring unity of purpose and joint action in assisting Guinea-Bissau in the restoration of and respect for constitutional order. My new Special Representative, José Ramos-Horta, will continue to promote enhanced coordination among these organizations.

31. There is a critical need to further support the implementation of United Nations programmes in the fields of health, water and sanitation, education, nutrition and food security to reduce the vulnerability of the population to deficiencies in these areas. I call upon donors to provide funding for these important sectors.

32. In April, I will submit recommendations to the Security Council with regard to the mandate of UNIOGBIS, as requested by the Council in resolution 2092 (2013). I am also expected to report on the implementation of resolution 2048 (2012) in May. In that regard, I would recommend that the two reports be merged into a single report to be submitted in April. I would also recommend that the Council consider changing the reporting cycle stipulated in resolution 2048 (2012) to every six months instead of every 90 days. This will allow for a more streamlined and consolidated report that will provide the Council with information on the progress made in the implementation of the UNIOGBIS mandate and in the restoration and respect for constitutional order in the country.

33. In conclusion, I wish to express my appreciation to the staff of UNIOGBIS, under the leadership of my new Special Representative, José Ramos-Horta, and the entire United Nations country team, in addition to members of the broader international community and national and international non-governmental organizations, for their contribution to peacebuilding in Guinea-Bissau.